This DRAFT Docket has been prepared for the purposes of the scheduled public hearing and may be substantially modified as a result of the public hearing process prior to Commission action.

8/27/2012 4:26 PM

DOCKET NO. D-2006-036-2

DELAWARE RIVER BASIN COMMISSION

Discharge to a Tributary of Special Protection Waters

Deb-El Food Products, LLC
Industrial Wastewater Treatment Plant
Town of Thompson, Sullivan County, New York

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by Lanc & Tully Engineering and Surveying, P.C. on behalf of Deb-El Food Products, LLC (Deb-El or docket holder) on April 23, 2012 (Application), for review of a new industrial wastewater treatment plant (IWTP). State Pollutant Discharge Elimination System (SPDES) Permit No. NY0272779 for this project was approved by the New York State Department of Environmental Conservation (NYSDEC) on August 17, 2011. The NYSDEC is expected to issue Plan Approval for this project shortly.

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Sullivan County Planning Department has been notified of pending action. A public hearing on this project was held by the DRBC on September 12, 2012.

A. DESCRIPTION

1. **Purpose**. The purpose of this docket is to approve the construction and operation of the proposed 0.05 mgd Deb-El IWTP.

2. **Location**. The IWTP will discharge treated effluent to the Neversink River at River Mile 253.64 – 28.7 (Delaware River – Neversink River) via Outfall No. 001, within the drainage area to the Middle Delaware Special Protection Waters (SPW) area, in the Town of Thompson, Sullivan County, New York as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
001	41° 40’ 22”	74° 38’ 05”

3. **Area Served**. The IWTP will service the docket holder's existing food production facility. For the purpose of defining the Area Served, Section B (Type of Discharge) and D (Service Area) of the docket holder's Application are incorporated herein by reference, to the extent consistent with all other conditions contained in the DECISION Section of this docket.

4. **Physical Features**.

a. **Design Criteria**. The docket holder proposes to construct a 0.05 mgd biologically engineered single sludge treatment (BESST) IWTP to treat the waste generated by the docket holder's existing food production facility. The docket holder currently hauls away the by-product of the operation for disposal within the basin. Construction of this facility will terminate the need for transport of these wastes.

b. **Facilities**. The proposed IWTP will consist of a surge tank, a mixing chamber, two (2) sludge holding tanks, two (2) anoxic tanks, two (2) aeration tanks, two (2) clarifiers, two (2) denitrification filters, a post aeration tank, and two (2) ultraviolet disinfection units.

The docket holder's wastewater treatment facility discharges to waters classified as SPW and is required to have available emergency power. The docket holder shall install a generator capable of providing sufficient power to the facility during construction (See DECISION Condition II.s. of this docket). (SPW)

The docket holder's wastewater treatment facility is not staffed 24 hours per day, and shall have a remote alarm system that continuously monitors plant operations. The docket holder shall install a remote alarm system capable of providing continuous monitoring during construction (See DECISION Condition II.s. of this docket). (SPW)

The docket holder's new wastewater treatment facility has not prepared and implemented an emergency management plan (EMP) suitable to Commission standards. The docket holder shall prepare and implement an EMP suitable to Commission standards within 6 months of approval of this docket (See DECISION Condition II.s. of this docket). (SPW)

The docket holder has satisfactorily proved the technical infeasibility of using natural wastewater treatment technologies. A report was submitted separate of the docket application that included several natural treatment technologies and concluded that due to the effluent limitations, natural treatment alternatives would not have been sufficient in reducing loadings for the nitrogen parameters required under the Commission's SPW requirements and therefore were not incorporated in the final design. (SPW)

The project facilities aren't located in the 100-year floodplain.

Wasted sludge will be hauled off-site by a licensed hauler for disposal at a (State-approved) facility.

c. **Water withdrawals**. The potable and production water supply in the project service area is provided by on-lot wells. The total withdrawal is less than 100,000 gpd as a 30-day average and is not required to have Commission approval.

d. **SPDES Permit / DRBC Docket**. SPDES Permit No. NY0272779 was approved by the NYSDEC on August 17, 2011 and includes final effluent limitations for the project discharge of 0.05 mgd to surface waters classified by the NYSDEC as Class B(T) or a trout stream with swimming, recreational, and fishing uses. The following average monthly effluent limits are among those listed in the SPDES Permit and meet or are more stringent than the effluent requirements of the DRBC.

EFFLUENT TABLE A-1: DRBC Parameters Included in SPDES Permit

OUTFALL 001 (IWTP)		
PARAMETER	**LIMIT**	**MONITORING**
pH (Standard Units)	6 to 9 at all times	As required by SPDES permit
Total Suspended Solids	30 mg/l	As required by SPDES permit
CBOD (5-Day at 20^{o} C)	5.64 lbs/day *, *** (85% minimum removal*)	As required by SPDES permit
Dissolved Oxygen	6.0 mg/l (minimum at all times)	As required by SPDES permit
Ammonia Nitrogen	2.4 mg/l 0.7 lbs/day *, ***	As required by SPDES permit
Nitrate & Nitrite as N*	0.8 lbs/day *, ***	As required by SPDES permit
Total Kjedhal Nitrogen*	1.6 lbs/day *, ***	As required by SPDES permit
Fecal Coliform	200 colonies per 100 ml as a geo. avg.	As required by SPDES permit
Phosphorus	1.0 mg/l 0.6 lbs/day *	As required by SPDES permit
Total Dissolved Solids*	1,000 mg/l **	As required by SPDES permit

* DRBC Requirement

** See DECISION Condition II.w.

*** The DRBC will restrict loadings to the receiving stream to protect water quality and not concentrations for these parameters. For your information, the corresponding concentrations associated with the loadings at the full permitted discharge flow are as follows:

PARAMETER	CONCENTRATION
CBOD (5-Day at 20^{o} C)	13.5 mg/l
Ammonia Nitrogen	1.7 mg/l
Nitrate & Nitrite as N*	1.9 mg/l
Total Kjedhal Nitrogen*	3.8 mg/l

e. **Cost**. The overall cost of this project is estimated to be $1,432,500 (See DECISION Condition II.k.).

B. BACKGROUND

In 1992, the DRBC adopted SPW requirements, as part of the DRBC *Water Quality Regulations* (*WQR*), designed to protect existing high water quality in applicable areas of the Delaware River Basin. One hundred twenty miles of the Delaware River from Hancock, New York downstream to the Delaware Water Gap has been classified by the DRBC as SPW. This stretch includes the sections of the river federally designated as "Wild and Scenic" in 1978 -- the Upper Delaware Scenic and Recreational River and the Delaware Water Gap National Recreation Area -- as well as an eight-mile reach between Milrift and Milford, Pennsylvania which is not federally designated. The SPW regulations apply to this 120-mile stretch of the river and its drainage area. (Upper/Middle SPW)

On July 16, 2008, the DRBC approved amendments to its *WQR* that provide increased protection for waters that the Commission classifies as SPW. The portion of the Delaware River and its tributaries within the boundary of the Lower Delaware River Management Plan Area was approved for SPW designation and clarity on definitions and terms were updated for the entire program. (Upper/Middle SPW)

The project IWTP will discharge to the Neversink River, which is located in the tributary area of the DRBC SPW. The Neversink River joins the Delaware River at River Mile 253.64, which is designated as Significant Resource Waters (SRW).

Section 3.10.3.A.2.c.2) of the Commission's *WQR* requires that new wastewater treatment facilities and existing wastewater treatment facilities that are proposing substantial alterations and additions "may be approved only after the applicant demonstrates that it has fully evaluated all natural wastewater treatment system alternatives and is unable to implement these alternatives because of technical and/or financial infeasibility." The docket holder has satisfactorily proved the technical infeasibility of using natural wastewater treatment technologies.

Section 3.10.3.A.2.d.8) of the Commission's *WQR* requires that new wastewater treatment facilities and existing wastewater treatment facilities that are proposing substantial alterations and additions demonstrate "….that the project will cause no measurable change to Existing Water Quality…" Section 3.10.3.A.2.d.9) of the *WQR* states that "For wastewater treatment facility projects subject to the no measurable change requirement, the demonstration of no measurable change to existing water quality shall be satisfied if the applicant demonstrates that the new or incremental increase in the facility's flow or load will cause no measurable change at the relevant water quality control point for the parameters denoted by asterisks in Tables 1 and 2 of this section: ammonia (NH_3 N); dissolved oxygen (DO); fecal Coliform (FC); nitrate (NO_3 N) or nitrite + nitrate (NO_2 N+ NO_3 N); total nitrogen (TN) or Kjeldahl nitrogen (TKN); total phosphorous (TP); total suspended solids (TSS); and biological oxygen demand (BOD) (Table 1 only)."

The project IWTP is a new wastewater treatment facility and is subject to the no measurable change (NMC) to existing water quality (EWQ) requirement. NMC to EWQ is to be demonstrated at the Neversink River Boundary Control Point (BCP). The Neversink BCP is

located near the confluence of the Neversink and Delaware Rivers (Table 1 - Part C of Section 3.10.3.A.2.g. of the Commission's *WQR*).

Section 3.10.3A.2.a.4) of the Commission's *WQR* defines "Measurable Change" as "an actual or estimated change in a seasonal or non-seasonal mean (for SPW waters upstream of and including River Mile 209.5) or median (for SPW waters downstream of River Mile 209.5) in-stream pollutant concentration that is outside the range of the two-tailed upper and lower 95 percent confidence intervals that define existing water quality."

EWQ is defined as the actual concentration of a water constituent at an in-stream site or sites, as determined through field measurements and laboratory analysis of data collected over a time period determined by the Commission to adequately reflect the natural range of the hydraulic and climatologic factors which affect water quality. EWQ is described in terms of:

(a) an annual or seasonal mean of the available water quality data,
(b) two-tailed upper and lower 95 percent confidence limits around the mean, and
(c) the 10^{th} and 90^{th} percentiles of the data set from which the mean was calculated.

The determination of NMC is based on a comparison of historical water quality observations at the Neversink BCP with the modeled (predicted) EWQ at the Neversink BCP. Historical water quality observations were used by Commission staff to define EWQ for the BCP, and were derived from EPA Storet (NYSDEC, USGS, etc.) data prior to 1993. The EWQ that is protected at the BCP is that which existed at the time of SPW classification in 1992 (1992-EWQ).

Commission staff compiled data for the eight parameters (NH_3 N, DO, FC, NO_2 N + NO_3 N, TKN, TP, TSS, and BOD) necessary to define 1992-EWQ as part of the docket approval for Gemstar Development Corporation's Heiden Road WWTP approved by the Commission in Docket No. D-2008-018 CP-1 on October 22, 2009. The mean and upper 95^{th} percentile data was compiled and EWQ at the Neversink BCP was determined to have the following characteristics:

Table B-1: EWQ for the Neversink River BCP

PARAMETER	MEAN	UPPER 95^{TH}%
NH_3 N (ug/l)	71	91
DO (mg/l)	9.18	8.91
FC (#/100ml)	92.90	116.95
NO_2 N+ NO_3 N (ug/l)	384	433
TKN (ug/l)	378	451
TP (ug/l)	99	138
TSS (mg/l)	5.5	6.3
CBOD (mg/l)	1.27	1.5

In 2009 Commission staff completed a water quality model, using the USEPA's QUAL2K platform, for the Neversink River Watershed. The 2009 Neversink River Water

Quality Model (NR-WQM) was used to analyze the impact to 1992-EWQ at the BCP from the proposed 0.024 mgd Heiden Road WWTP. Section 3.10.3.A.2.d.9) of the *WQR* further states "In making the demonstration required in the preceding sentence the applicant shall use a DRBC-approved model of the tributary or main stem watershed if available." Commission staff developed the 2009 NR-WQM in order to evaluate new and expanding wastewater treatment facilities that are located in the Neversink River watershed. The 2009 NR-WQM was used to develop effluent limitations protective of the existing water quality described in Table B-1.

The 2009 NR-WQM's domain included the watershed downstream of the Neversink Reservoir. The 2009 NR-WQM was calibrated using in stream water quality data sets from pre-1993 and current watershed-wide WWTP discharge information available from the discharge monitoring reports (DMRs). The model assumed that all existing WWTPs will eventually discharge at their full permitted (or docketed) design flows and loads. In addition it also assumes that all new or expanding WWTPs will discharge at their proposed design flow and loads. For those contaminants for which there was no discharge information, typical effluent data was used from facilities in similar watersheds. The 2009 NR-WQM included data from fourteen (14) existing WWTPs whose facility name and size are listed below in Table B-2. Where DMR values did not exist for certain parameters, Best Professional Judgment (BPJ) was used for data from similar facilities to derive typical effluent concentrations. Rate constants for nitrification, oxidation, hydrolysis, and denitrification were selected from the QUAL2K user manual recommendations and the EPA Technical Guidance for Developing TMDLs.

Table B-2

FACILITY	NYSDEC PERMITTED DISCHARGE (MGD)	SPDES Permit No.	DRBC Docket No.
Kiamesha Lake	2.0	NY0030724	D-1989-011 CP-1
Camp Ohr Shalom *	0.07	NY0271179	---
Davos in the Woods *	0.25	NY0218987	---
Mountain Hill Cottages	0.014	NY0096067	D-2005-002-1
Emerald Green	0.41	NY0035645	D-1995-016 CP-1
Dragon Spring Budhist Inc.	0.011	NY0274089	D-2007-021-1
Otisville Federal Correction Institute	0.5	NY0037397	D-1994-011 CP-1
Monticello **	3.1	NY0022454	D-1981-038 CP-1
Woodridge *	0.79	NY0023493	---
Melody Lake *	0.038	NY0030708	---
Port Jervis	2.5	NY0026522	D-2004-028 CP-1
Loch Sheldrake **	0.7	NY0145696	D-1985-074 CP-2
South Fallsburg **	3.26	NY0024520	D-1967-069 CP-2
Beaver Lake Estates **	0.035	NY0145734	D-2009-038 CP-1
Gemstar	0.024	NY0272892	D-2009-018 CP-1

* Application Request Letter Sent

** Indicates Active Project Applications with the Commission

In addition to the 14 facilities listed above with active SPDES permits/DRBC dockets, Commission staff also received **notice or applications** (either from the NYSDEC, the project sponsor and/or from Town Planning boards) for 7 new wastewater treatment projects (i.e. the Deb-El IWTP) and 3 expansions of existing wastewater treatment projects planned for the Neversink watershed. Four of the ten wastewater treatment facilities have yet to apply to the Commission for formal review/approval in accordance with Section 3.8 of the Compact, but have been formally contacted by the Commission staff and informed that the projects are to be reviewed by the Commission.

In order to determine compliance with the NMC requirement, Commission staff used the 2009 NR-WQM to evaluate several discharge scenarios. These scenarios included all 14 SPDES permitted dischargers with permitted flows equal to or greater than (≥) 10,000 gpd within the NR-WQM domain, the Heiden Road WWTP, and the discharge of the 10 proposed new or expanding WWTPs.

The model was used to predict in-stream concentrations of BOD_5, TSS, Total Phosphorous (TP), Nitrite-Nitrate Nitrogen (NO_2 N + NO_3 N), Ammonia Nitrogen (NH_3 N), Total Kjedhal Nitrogen (TKN) and Dissolved Oxygen (DO) under different discharge scenarios for the Heiden Road WWTP.

Commission staff updated the 2009 NR-WQM to reflect data collected since the Heiden Road WWTP approval on October 22, 2009 including data on twelve WWTPs not previously included in the model domain (See Table B-3), but have existing SPDES Permits and discharge to the Neversink watershed. Commission staff also established the grandfathered load for each existing facility (based on 1992 discharges). As such, the 2009 NR-WQM was recalibrated with said data. The Heiden Road WWTP and Beaver Lake Estates WWTP (approved March 3, 2010) were incorporated as existing facilities for the purpose of establishing effluent limits for other in-house facilities (Deb-El, South Fallsburg, and Loch Sheldrake). The updated model used to analyze the Deb-El IWTP project is referenced as the August 2010 NR-WQM.

Table B-3

FACILITY	NYSDEC PERMITTED DISCHARGE (MGD)	SPDES Permit No.
Jened Recreation	0.036	NY0030562
Kutcher's Country	0.2	NY0033600
Glen Wild Hotel	0.013	NY0095877
Nachlas Enunah Bu	0.0513	NY0148164
Yellow Park Apartments	0.0062	NY0148211
Kiamesha Artesian	0.0012	NY0166090
Dillon Farms	0.002	NY0214507
Old Homestead	0.0045	NY0219576
Kutcher's Sports	0.0325	NY0249939
Huguenot Camp	0.0202	NY0250058
Victoria Colony	0.0056	NY0250813
Kyprianou	0.0008	NY0259250

In order to determine the net potential impacts to the 1992-EWQ at the BCP as a result of the in-house facility discharges, the Commission staff first used the August 2010 NR-WQM to establish grandfathered loadings for all facilities in Tables B-2 and B-3 that were in existence in 1992 (See Table B-4). Commission staff then analyzed each facility as it is permitted to discharge today and calculated the equal effluent concentrations (EEC) required for the non-grandfathered load of each facility to establish effluent limits for each parameter (see Table B-5).

Table B-4: August 2010 NR-WQM Existing/Grandfathered Results

Model Run	**BOD5 (mg/l)**	**TSS (mg/l)**	**Total P (ug/l)**	**Nitrate – Nitrite N (ug/l)**	**TKN (ug/l)**	**Ammonia – N (ug/l)**	**D.O. (mg/l)**
Mean	1.27	5.5	99	385	378	71	9.18
95% C.L. (EWQ Target)	1.5	6.3	138	433	451	91	8.91
1992 Grandfathered Condition for facilities in Tables B-2 and C-1	1.09	1.27	87	381	378	71	9.17

Table B-5: EEC

	BOD5 (mg/l)	**TSS (mg/l)**	**Total P (mg/l)**	**Nitrate – Nitrite N (mg/l)**	**TKN (mg/l)**	**Ammonia – N (mg/l)**
EEC	13.5	30	1.3	1.9	3.8	1.7

Since Deb-El is a new IWTP that did not exist in 1992, effluent limits for this facility are the same as those established in the EEC model run. The Deb-El IWTP effluent loading limits are defined in Effluent Table A-1 of this docket. The loadings found in Effluent Table A-1 are based upon the concentrations established in Table B-5 of this docket. As the IWTP reaches its expected flow it will need to produce effluent concentrations equivalent to or less than those indicated in Table B-5 of this docket in order for the docket holder to meet its corresponding load.

The effluent limits found in Effluent Table A-1 of this docket are required of the project WWTP to prevent a measurable change to EWQ after all 27 wastewater treatment facilities with active SPDES permit/DRBC dockets, all in-house projects, and the four expected projects in the near future are taken into account.

Article 3.10.3A.2.e.1). and 2). of the Commission's *WQR* requires that projects subject to review under Section 3.8 of the Compact that are located in the drainage area of SPW must submit for approval a Non-Point Source Pollution Control Plan (NPSPCP) that controls the new or increased non-point source loads generated within the portion of the applicant's service area which is also located within the drainage area of SPW. The service area of the docket holder is located within the drainage area to the SPW. Since this project does entail construction of facilities (i.e., there are no new or increased non-point source loads associated with this approval), the non-point source pollution control plan requirement is applicable at this time. DECISION Condition II.r. has been included in this docket requiring the docket holder to submit

a NPSPCP within 6 months of approval of this docket for review and approval by the Executive Director.

C. FINDINGS

Deb-El has proposed the construction of a 0.05 mgd IWTP that will discharge to the Neversink River at River Mile 253.64 – 28.7 (Delaware River – Neversink River). The purpose of this facility would be to treat on-site wastes that have been transported to other treatment facilities within the basin in previous years to better service the docket holder's existing food production facility.

The Commission approved Docket No. D-2009-036-1 on December 8, 2010. Docket No. D-2009-036-1 approved the construction of a 0.05 mgd IWTP for the Deb-El facility. However, the treatment process at the time was not sufficient to meet the effluent limitations in the docket. The Application supplied for this review included a technology that would be sufficient to meet the effluent limitations from the previous docket. Since the NR-WQM was updated in 2011 and included the effluent limitations found in this docket as "actual" limitations and since three years have not passed since that approval, Commission staff made the professional judgment to keep the effluent limitations the same for this docket as the last.

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

The limits in the NPDES Permit are in compliance with Commission effluent quality requirements, where applicable.

The project is designed to produce a discharge meeting the effluent requirements as set forth in the Commission's *WQR*.

C. DECISION

I. Effective on the approval date for Docket No. D-2009-036-2 below, Docket No. D-2009-036-1 is terminated and replaced by Docket No. D-2009-036-2.

II. The project and appurtenant facilities as described in Section A "Physical Features" of this docket are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. Docket approval is subject to all conditions, requirements, and limitations imposed by the NYSDEC in its SPDES Permit, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission's.

b. The facility and operational records shall be available at all times for inspection by the DRBC.

c. The facility shall be operated at all times to comply with the requirements of the Commission's *WQR*.

d. The docket holder shall comply with the requirements contained in the Effluent Table in Section A.4.d. of this docket. The docket holder shall submit the required monitoring results directly to the DRBC Project Review Section. The monitoring results shall be submitted annually, absent any observed limit violations, by January 31. If a DRBC effluent limit is violated, the docket holder shall submit the result(s) to the DRBC within 30 days of the violation(s) and provide a written explanation that states the action(s) the docket holder has taken to correct the violation(s) and protect against any future violations.

e. Except as otherwise authorized by this docket, if the docket holder seeks relief from any limitation based upon a DRBC water quality standard or minimum treatment requirement, the docket holder shall apply for approval from the Executive Director or for a docket revision in accordance with Section 3.8 of the *Compact* and the *Rules of Practice and Procedure*.

f. If at any time the receiving treatment plant proves unable to produce an effluent that is consistent with the requirements of this docket approval, no further connections shall be permitted until the deficiency is remedied.

g. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

h. The discharge of wastewater shall not increase the ambient temperatures of the receiving waters by more than 5°F until stream temperatures reach 50°F, nor by more than 2°F when stream temperatures are between 50°F and 58°F, nor shall such discharge result in stream temperatures exceeding 58°F.

i. Sound practices of excavation, backfill and reseeding shall be followed to minimize erosion and deposition of sediment in streams.

j. Within 10 days of the date that construction of the project has started, the docket holder shall notify the DRBC of the starting date and scheduled completion date.

k. Within 30 days of completion of construction of the approved project, the docket holder is to submit to the attention of the Project Review Section of DRBC a Construction Completion Statement ("Statement") signed by the docket holder's professional engineer for the project. The Statement must (1) either confirm that construction has been completed in a manner consistent with any and all DRBC-approved plans or explain how the as-built project deviates from such plans; (2) report the project's final construction cost as such cost is defined by the project review fee schedule in effect at the time the application was made; and (3) indicate the date on which the project was (or is to be) placed in operation. In the event that the final project cost exceeds the estimated cost used by the docket holder to calculate the DRBC project review fee, the statement must also include (4) the amount of any outstanding balance owed for DRBC review. The outstanding balance will equal the difference between the fee paid to the

Commission and the fee calculated on the basis of the project's final cost, using the formula and definition of "project cost" set forth in the DRBC's project review fee schedule in effect at the time application was made.

l. This docket approval shall expire three years from date below unless prior thereto the docket holder has commenced operation of the subject project or has expended substantial funds (in relation to the cost of the project) in reliance upon this docket approval.

m. The docket holder is permitted to treat and discharge wastewaters as set forth in the Area Served Section of this docket, which incorporates by reference Sections B (Type of Discharge) and D (Service Area) of the docket holder's Application to the extent consistent with all other conditions of this DECISION Section.

n. The docket holder shall make wastewater discharge in such a manner as to avoid injury or damage to fish or wildlife and shall avoid any injury to public or private property.

o. No sewer service connections shall be made to newly constructed premises with plumbing fixtures and fittings that do not comply with water conservation performance standards contained in Resolution No. 88-2 (Revision 2).

p. Nothing in this docket approval shall be construed as limiting the authority of DRBC to adopt and apply charges or other fees to this discharge or project.

q. The issuance of this docket approval shall not create any private or proprietary rights in the waters of the Basin, and the Commission reserves the right to amend, suspend or rescind the docket for cause, in order to ensure proper control, use and management of the water resources of the Basin.

r. The docket holder shall submit a NPSPCP to the Executive Director within 6 months (March 12, 2013) of approval of this docket for review and approval. Additionally, prior to allowing future connections from any new service areas or any new developments, the docket holder shall either submit and have approved by the Executive Director of the DRBC a NPSPCP in accordance with Section 3.10.3.A.2.e, or receive written confirmation from the Executive Director of the DRBC that the new service area is in compliance with a DRBC approved NPSPCP.

s. In 1992, this portion of the Delaware River and its tributaries was classified as Special Protection Waters. The docket holder will provide assurance to the Executive Director that it is in compliance with Article 3.10.3.2.A.d.1), 2) and 4) of the DRBC *Water Quality Regulations*.

t. Unless an extension is requested and approved by the Commission in advance, in accordance with paragraph 11 of the Commission's Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges in the event of untimely submittal of its renewal application, whether or not DRBC issues a

reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below (or the later date established by an extension that has been timely requested and approved), the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

u. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director's judgment such modification or suspension is required to protect the water resources of the Basin.

v. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the Rules of Practice and Procedure. In accordance with Section 15.1(p) of the Delaware River Basin Compact, cases and controversies arising under the Compact are reviewable in the United States district courts.

w. The docket holder may request of the Executive Director in writing the substitution of specific conductance for TDS. The request should include information that supports the effluent specific correlation between TDS and specific conductance. Upon review, the Executive Director may modify the docket to allow the substitution of specific conductance for TDS monitoring.

x. The docket holder is prohibited from treating/pre-treating any hydraulic fracturing wastewater from sources in or out of the Basin at this time. Should the docket holder wish to treat/pre-treat hydraulic fracturing wastewater in the future, the docket holder will need to first apply to the Commission to renew this docket and be issued a revised docket allowing such treatment and an expanded service area. Failure to obtain this approval prior to treatment/pre-treatment will result in action by the Commission.

BY THE COMMISSION

DATE APPROVED:

EXPIRATION DATE: July 31, 2016